

Defendant Mark Hatcher's motion to dismiss (Paper 33) is DENIED as moot.

Defendant Hatcher was dismissed from the case and terminated as a party pursuant to the Court's Order filed April 2, 2010. (Paper 43.)

This matter is returned to Magistrate Judge John M. Conroy for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 28<sup>th</sup> day of May, 2010.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha

Senior United States District Judge